

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HK CAPITAL LLC,

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE  
CORPORATION as Receiver for Signature Bank,  
FEDERAL DEPOSIT INSURANCE  
CORPORATION in its Corporate Capacity,  
FEDERAL DEPOSIT INSURANCE  
CORPORATION as Receiver for Signature Bridge:  
Bank, N.A., FLAGSTAR BANK, N.A., NICKY G  
DEVELOPMENT GROUP LLC, AND  
“JOHN DOE” #1-#10,

Defendants.  
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Case No. 1:23-cv-3775

FEDERAL DEPOSIT INSURANCE  
CORPORATION as Receiver for Signature Bank,

Third-Party Plaintiff,

v.

LOUIS GUADAGNO and ATLANTIC CONS  
CO LLC

Third-Party Defendants.  
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~~PROPOSED~~ JUDGMENT

WHEREAS, plaintiff HK Capital (“HK Capital”) commenced this action by filing  
a Summons and Complaint on June 14, 2021 in the New York County Supreme Court; and

WHEREAS, HK Capital named Signature Bank as a defendant; and

WHEREAS, Signature Bank failed on March 12, 2023; and

WHEREAS, the Federal Deposit Insurance Corporation as Receiver for Signature Bank (“FDIC-R1”) was substituted as a defendant for Signature Bank on May 1, 2023; and

WHEREAS, FDIC-R1 removed this action to this Court on May 4, 2023 (ECF 1);  
and

WHEREAS, HK Capital filed an Amended Complaint on December 19, 2023 (ECF 26), in which it added the Federal Deposit Insurance Corporation as Receiver for Signature Bridge Bank, N.A. (“FDIC-R2”), the Federal Deposit Insurance Corporation in its corporate capacity (“FDIC-C,” and together with FDIC-R1 and FDIC-R2, the “FDIC Defendants”) and Flagstar Bank, N.A. (“Flagstar”) as defendants; and

WHEREAS, HK Capital filed a Third Amended Complaint on January 25, 2024 (ECF 43);

WHEREAS, the FDIC Defendants and Flagstar filed motions to dismiss the Third Amended Complaint on February 9, 2024 (the “Motions”) (ECF 50-53 (FDIC-R1); ECF 54-55 (FDIC-C); ECF 56-57 (FDIC-R2); ECF 63-65 (Flagstar)); and

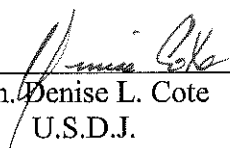
WHEREAS, HK Capital opposed the Motions on March 1, 2024 (ECF 66-68);  
and

WHEREAS, the FDIC Defendants and Flagstar filed replies in further support of the Motions on March 22, 2024 (ECF 69 (FDIC-C); ECF 70-71 (FDIC-R1); ECF 72 (FDIC-R2); ECF 73 (Flagstar)); and

WHEREAS, the Court entered an Opinion and Order, dated May 21, 2024 (the “Dismissal Order”), in which it granted the Motions <sup>to dismiss the claims</sup> as against the FDIC Defendants and Flagstar <sup>the</sup> with prejudice, and denied HK Capital leave to amend the Third Amended Complaint (ECF 75),

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered in favor of the FDIC Defendants and Flagstar pursuant to Federal Rule<sup>5</sup> of Civil Procedure 58(d),<sup>1</sup> for the reasons set forth in the Dismissal Order, and that the case is dismissed with prejudice as against the FDIC Defendants and Flagstar, *there being no just reason for delay.*

Dated: June 12, 2024  
New York, NY

  
Hon. Denise L. Cote  
U.S.D.J.